

**2013 DRAFTING REQUEST**

**Bill**

Received:	<b>7/3/2013</b>	Received By:	<b>jkuesel</b>
Wanted:	<b>As time permits</b>	Same as LRB:	
For:	<b>Peter Barca (608) 266-5504</b>	By/Representing:	<b>Matt Eggerer</b>
May Contact:		Drafter:	<b>jkuesel</b>
Subject:	<b>Unemployment Insurance</b>	Addl. Drafters:	<b>mduchek</b>

Extra Copies:

Submit via email: **YES**  
 Requester's email: **Rep.Barca@legis.wisconsin.gov**  
 Carbon copy (CC) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Unemployment insurance - various changes

**Instructions:**

Per attached E mail, 6/20/13.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 8/14/2013			_____			
/1		wjackson 8/16/2013	phenry 8/16/2013	_____	sbasford 8/16/2013	sbasford 8/19/2013	State S&L

FE Sent For:

<END>

At  
Intro.

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By/Representing: Matt Eggerer

May Contact:

Drafter: jkuesel

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Addl. Drafters: mduchek

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FE Sent For:

<END>

## Kuesel, Jeffery

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**From:** Hanaman, Cathlene  
**Sent:** Thursday, June 20, 2013 6:36 PM  
**To:** Gary, Aaron; Tradewell, Becky; Duchek, Michael; Mueller, Eric; Knepp, Fern; Malaise, Gordon; Kuesel, Jeffery; Kreye, Joseph; Shovers, Marc; Kunkel, Mark; Gibson-Glass, Mary; Gallagher, Michael; Kahler, Pam; Hurley, Peggy; Grant, Peter; Champagne, Rick; Kite, Robin; Shea, Elisabeth; Miller, Steve; Dodge, Tamara; Kuczenski, Tracy  
**Subject:** FW: Amendments into Bill Drafts

In case you were wondering what to do while listening to the Senate debate.

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**From:** Egerer, Matt  
**Sent:** Thursday, June 20, 2013 6:23 PM  
**To:** Hanaman, Cathlene  
**Subject:** Amendments into Bill Drafts

Cathlene,

Once again we want to thank you for your help during the budget process. At this time we would like to discuss the process of converting our drafted amendments into legislation. However, I don't know if you need to wait for potential vetoes on the bill before drafting bills.

Whenever we are able to get bills on these issues drafted, we would like to get the first few drafted as separate bills.

LRB#(13b0...) Summary:

385 Delete Bail Bond provisions (item 11, page 588)  
442 Delete changes to lead paint liability laws  
429 Require DOR to create an income tax credit program to reduce interest on student loans  
421 Delete changes to sale or lease of state property  
384 Delete UI tax increases on contractors/manufacturers  
618 Youngstar changes

Other drafts we are interested in getting as separate bills unless specified:

604 Increase domestic abuse grants  
386 Grant for Farm to school program  
405 Delete changes to grazing lands conservation initiative  
579 Delete study to consolidate DSPS with DATCP (item 8, p 587)  
467 Delete changes made to Center for Investigative Journalism  
398 Delete changes related to residency requirements for local government  
508 Delete transfer of unclaimed property program  
613 Delete prohibition on ability of local governments to limit the sale of certain food and beverages  
551 Prohibit a licensed bail bond agent or agency from making campaign donations to candidates in judicial elections  
454 Delete Changes made to payday lending  
473 Delete collection of DNA at arrest; p. 399, item 1  
403 Automatic expungement of DNA if innocent (item 1, p. 399)  
466 Adopt Family Care expansion to northeast Wisconsin  
568 Delete non-resident agent appointment fees  
488 Delete state employee high-deductible health plans and health savings accounts  
577 Delete exchange navigator regulation

- 456 Delete estate recovery and divestment provisions
- 465 Modify changes made to allocable segregated fees (postpone by 1 year)
- 440 Index the homestead tax credit
- 549 Modify broadband expansion grant program
- 457 Remove reduction of municipal levy limit upon fee increase
- 396 Increase Sand Mining monitoring positions
- 389 Delete provisions regarding high capacity wells (item 4, p 496)
- 523 Funding for emerald ash borer control grants
- 387 Delete provision regarding sale of DNR lands (item 19, p 454)
- 388 Delete funding changes made to stewardship program (item 15, page 448)
- 547 Staff and funding for WERC (item 2, p 210)
- 416 Delete all changes to Food Share program (item 1, p 330)
- 528 Prohibit sale of State Capitol
- 527 Prohibit sale of Camp Randall
- 529 Require competitive bidding for sale of state properties
- 530 Prohibit sale of property funded at least 25% by gift, grant, or federal funds
- 588 Delete cost-benefit analysis for consulting services for transportation projects provision

Packaged together:

- 433 Restore dairy manufacturing facility investment credit
- 434 Restore dairy and livestock farm reinvestment credit
- 435 Restore beginning farmer and farm asset owner credit
- 437 Restore meat processing facility investment credit
- 438 Restore food processing facility and warehouse credit

Packaged together:

- 446 WHEG-UW funding increase
- 447 WHEG-TCS funding increase

Packaged together:

- 422 ✓ UI language that allows DWD to require more than 4 work searches per week
- 408 ✓ Delete UI Work Search - Temporary Help Companies changes
- 384 ✓ Delete UI tax increases on contractors/manufacturers
- 407 ✓ Delete UI voluntary termination of work provisions
- ~~409 Delete UI changes to Reduce Partial Benefits during holidays~~
- 423 ✓ Delete interfund borrowing for unemployment reserve fund
- 424 Delete changes to UI misconduct disqualification and requalification
- 564 ✓ UI voluntary termination of work ("quit") exceptions, substitute UIAC approved changes
- 532 Modify UI disqualification for misconduct
- 533 Modify UI disqualification for absenteeism/tardiness
- 624 ✓ UI work registration and search requirements deleted

Matt Egerer  
 Office of Representative Peter Barca  
 Assembly Democratic Leader  
 608.266.5504



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-2622/1  
JTK&MED: /.....

Wlj

Thu 8/6

2013 BILL

D-note

per

1

AN ACT <sup>Gen</sup> relating to: various changes in the unemployment insurance law

*Analysis by the Legislative Reference Bureau*

This bill makes various changes in the unemployment insurance (UI) law. Significant provisions include:

***Misconduct, absenteeism, and tardiness***

\* Currently effective January 5, 2014, if an employee is discharged for misconduct connected with his or her employment, the employee is ineligible to receive UI benefits until seven weeks have elapsed since the end of the week in which the discharge occurs and the employee earns wages, or certain other amounts treated as wages, after the week in which the discharge occurs, equal to at least 14 times the employee's weekly benefit rate in employment covered by the UI law of any state or the federal government. In addition, all wages earned with the employer that discharges the employee are excluded in determining the amount of any future benefits to which the employee is entitled. The law defines "misconduct" to mean one or more actions or conduct evincing such willful or wanton disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior which an employer has the right to expect of his or her employees, or in carelessness or negligence of such degree or recurrence as to manifest culpability, wrongful intent, or evil design of equal severity to such disregard, or to show an intentional or substantial disregard of an employer's interests, or of an employee's duties and obligations to his or her employer. Under the law, "misconduct" specifically includes absenteeism by an employee on more than two occasions within the 120-day period before the date of the employee's termination, unless otherwise specified by his or her employer in an employment manual of which the employee has acknowledged receipt

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with his or her signature, or excessive tardiness by an employee in violation of a policy of the employer that has been communicated to the employee, if the employee does not provide his or her employer with both notice and one or more valid reasons for the absenteeism or tardiness. In addition, "misconduct" specifically includes <sup>1)</sup> ~~a~~ a violation of an employer's reasonable written policy concerning the use of alcohol beverages, a controlled substance (dangerous drug), or a controlled substance analog <sup>2)</sup> ~~(a drug that is similar to a controlled substance);~~ <sup>3)</sup> ~~b~~ theft of an employer's property or services under certain circumstances; <sup>4)</sup> ~~c~~ conviction of an employee of a crime or civil violation under certain circumstances; <sup>5)</sup> ~~d~~ threats or acts of harassment, assault, or other physical violence at a workplace; <sup>6)</sup> ~~e~~ falsifying an employer's business records unless directed the employer; <sup>7)</sup> ~~f~~ unless directed by the employer, a willful and deliberate violation of a governmental standard or regulation under certain circumstances. In addition, currently, an employee whose work is terminated by his or her employer for "substantial fault" by the employee connected with the employee's work is ineligible to receive benefits until seven weeks have elapsed since the end of the week in which the termination occurs and the employee earns wages, or certain other amounts treated as wages, after the week in which the termination occurs equal to at least 14 times the employee's weekly benefit rate in employment covered by the UI law of any state or the federal government. Under the law, "substantial fault" includes those acts or omissions of an employee over which an employee exercised reasonable control and which violate reasonable requirements of the employee's employer but does not include certain minor infractions, errors, or failure to perform work because of insufficient skill, ability, or equipment.

This bill retains the suspension and requalification requirements for misconduct but eliminates the suspension and requalification requirements for substantial fault. Under the bill, absenteeism and tardiness are not specifically defined as "misconduct" but the bill provides that <sup>1)</sup> ~~an~~ employee is discharged for failure to notify an employer of absenteeism or tardiness that becomes excessive, and the employee's employer complies with certain requirements relating formulation and implementation of policies regarding absenteeism and tardiness, the employee is ineligible to receive benefits until six weeks have elapsed since the end of the week in which the discharge occurs and the employee earns wages after the week in which the discharge occurs equal to at least six times the employee's weekly benefit rate in employment covered by the UI law of any state or the federal government. The bill also modifies current law concerning specific acts that constitute misconduct by eliminating specific enumeration of <sup>2)</sup> ~~a~~ threats or acts of harassment, assault, or physical violence; and <sup>3)</sup> ~~b~~ falsifying business records. Under the bill, the specific acts that constitute <sup>4)</sup> ~~misconduct~~ for use of alcohol beverages, a controlled substance, or controlled substance analog include only those acts that violate an employer's uniformly applied written policy of which the employee had knowledge; <sup>5)</sup> ~~do not~~ include refusal to take a test for use of alcohol beverages, a controlled substance, or controlled substance analog; <sup>6)</sup> ~~and,~~ with respect to alcohol beverages, include only consumption or being under the influence of alcohol beverages during working hours. In addition, the specific acts do not include convictions of civil violations, violations of governmental standards or regulations of tribal governments or

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violations resulting in sanctions other than fines, or felonious conduct connected with an employee's employment or intentional or negligent conduct by an employee that causes substantial damage to an employer's property. Under the bill, the specific acts not enumerated may nevertheless constitute "misconduct" if the acts are interpreted to fall within the definition of that term in the bill.

***Registration and work search requirements***

Currently, with limited exceptions, in order to become and remain eligible to receive benefits for any week, a claimant is required, among other things, to register for work in the manner directed by the Department of Workforce Development (DWD) and to conduct a reasonable search for suitable work within that week, which must include at least four actions that constitute a reasonable search as prescribed by rule by DWD. In addition, DWD may require a claimant to take more than four reasonable work search actions in any week, but DWD must require a uniform number of reasonable search actions for similar types of claimants.

This bill retains the work-registration requirement but deletes the requirement that a claimant register for work in the manner directed by DWD. The bill also reduces the required number of reasonable work search actions per week that a claimant must take to two actions and deletes authority of DWD to require a claimant to take more than four reasonable search actions in any week.

***Temporary help companies and work search***

Under current law, effective January 5, 2014, there is a rebuttable presumption that a UI claimant who is subject to the UI law's work search requirement has not conducted a reasonable search for suitable work in a given week if (1) the claimant was last employed by a temporary help company, as defined under current law; 2) the temporary help company required the claimant to contact the temporary help company about available assignments weekly, or less often as prescribed by the temporary help company, and the temporary help company gave the claimant written notice of that requirement at the time the claimant was initially employed by the company; 3) during that week, the claimant was required to contact the temporary help company about available assignments and the claimant did not contact the temporary help company about available assignments; and 4) the temporary help company submits a written notice within ten business days after the end of that week to DWD reporting that the claimant failed to so contact the temporary help company. The claimant may overcome the rebuttable presumption only by a showing that the claimant did in fact contact the temporary help company about available assignments or by showing that the claimant was not informed of this requirement or had other good cause for failing to do so. The claimant's contact of the temporary help company for a given week counts as one action toward the UI law's work search requirement for that week.

The bill repeals these provisions for claimants who were last employed by temporary help companies.

***Contribution and solvency rate schedules***

Currently, all employers that engage employees in work that is covered under the UI law, other than governmental, nonprofit, and Indian <sup>tribal</sup> ~~tribe~~ employers that elect to pay directly for the cost of benefits, must pay contributions (taxes) to finance



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UI benefits. The total contributions of an employer are the sum of the contributions payable as a result of the employer's contribution rate and the contributions payable as a result of the employer's solvency rate, each of which varies with the employment stability of the employer and the solvency of the unemployment reserve fund (fund), from which benefits are paid. An employer's contributions payable as a result of its contribution rate are credited to the employer's account in the fund, while an employer's contributions payable as a result of its solvency rate are credited to the fund's balancing account, which is used to finance benefits not payable from any employer's account.

An employer's contribution rate is determined based upon the employer's reserve percentage. The employer's reserve percentage is the net balance of the employer's account as of the computation date (generally June 30), stated as a percentage of the employer's taxable payroll in the 12-month period ending on the computation date. Current law defines taxable payroll as the first \$14,000 of wages paid by an employer to each employee during a calendar year. An employer's solvency rate is determined by reference to the employer's contribution rate and rises as the contribution rate rises.

Currently, there are four schedules of contribution rates and four schedules of solvency rates. The schedule that applies for any year depends upon the solvency of the fund on June 30 of the preceding year. Under current law, the following contribution rates apply to employers, effective January 1, 2015: 1) if an overdrawn employer has a reserve percentage of 7.0 percent or greater, but less than 8.0 percent, the contribution rate for such an employer is 9.25 percent of taxable payroll; 2) if an overdrawn employer has a reserve percentage of 8.0 percent or greater, but less than 9.0 percent, the contribution rate for such an employer is 10.00 percent of taxable payroll; and 3) if an overdrawn employer has a reserve percentage of 9.0 percent or greater, the contribution rate for such an employer is 10.70 percent of taxable payroll. For each of the contribution rates in each of the four schedules for overdrawn employers with reserve percentages of 7.0 or greater, the employer must pay a solvency rate of 1.30 percent of taxable payroll.

The bill repeals these contribution rates for overdrawn employers with reserve percentages greater than 7.0 percent. Under the bill, all overdrawn employers with reserve percentages of 6.0 percent or greater pay the same contribution rate of 8.50 percent of taxable payroll for each of the four schedules of contribution rates. The bill also repeals the corresponding solvency rates for overdrawn employers with reserve percentages of 7.0 percent or greater so that all overdrawn employers with reserve percentages of 6.0 percent or greater pay the same solvency rates.

### **Termination of work; exemptions from requalification requirements**

Currently, unless an exemption applies, if an employee voluntarily terminates his or her work with an employer, the employee is generally ineligible to receive UI benefits until the employee satisfies certain requalification requirements. The bill recreates certain exemptions from the requalification requirements for employees who voluntarily terminate employment, which were repealed by Act 20, effective January 5, 2014, that are available in the following circumstances:

for

2013 Wisconsin

**BILL**

1. The employee terminated his or her work to accept a recall to work for a former employer within 52 weeks after having last worked for that employer. ✓

2. The employee maintained a temporary residence near the terminated work; the employee maintained a permanent residence in another locality; and the employee terminated the work and returned to his or her permanent residence because the work available to the employee had been reduced to less than 20 hours per week in at least two consecutive weeks. ✓

3. The employee left or lost his or her work because the employee reached the employer's compulsory retirement age. ✓

4. The employee terminated part-time work because a loss of other, full-time employment made it economically unfeasible for the employee to continue the part-time work. ✓

5. The employee terminated his or her work in a position serving as a part-time elected or appointed member of a governmental body or representative of employees; the employee was engaged in work for an employer other than the employer in which the employee served as the member or representative; and the employee was paid wages in the terminated work constituting not more than 5 percent of the employee's base period wages for purposes of entitlement for benefits. ✓

6. The employee terminated his or her work in one of two or more concurrently held positions, at least one of which was full-time work, if the employee terminated his or her work before receiving notice of termination from a full-time work position. ✓ <sup>owner</sup>

7. The employee owns or controls an ownership interest in a family corporation and the employee's employment was terminated because of an involuntary cessation of the business of the corporation under certain specified conditions. ✓

Also under current law, effective January 5, 2014, an employee who voluntarily terminates his or her work with an employer is exempt from the requalification requirements if the employee's spouse is an active duty member of the U.S. Armed Forces who was required by the U.S. Armed Forces to relocate and the employee terminated his or her work to accompany the spouse to that place. Under the bill, the exemption is instead available to any employee who changed his or her place of employment to a place to which it is impractical to commute if the employee terminated his or her work to accompany the spouse to that place.

The bill does not affect any other exemptions from the requalification requirements for employees who voluntarily terminate employment.

***Loans by this state to the unemployment reserve fund***

✱ Currently, effective January 1, 2014, the secretary of workforce development may request the secretary of administration to reallocate (loan) moneys to the unemployment reserve fund from other state funds or accounts. The total outstanding amount of reallocations may not exceed \$50,000,000 at any given time. Any reallocation is subject to the approval of the Joint Committee on Finance. The secretary of administration may not assess any interest upon outstanding reallocations. The law provides that the secretary of workforce development must request a reallocation whenever the secretary determines that employers in this state that are subject to a requirement to pay a federal unemployment tax might experience a lower tax rate if this state were to loan moneys to the unemployment

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reserve fund and the loan could be made under existing law. The law also directs the secretary of workforce development to repay any loans made by this state to the unemployment reserve fund whenever the secretary determines that repayment can be made without jeopardizing the ability of DWD to continue to pay other liabilities and costs chargeable to the fund.

This bill deletes the authority to make reallocations to the unemployment reserve fund from other state funds and accounts.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

SECTION 1. 16.531 (4) of the statutes, as created by 2013 Wisconsin Act 20, is repealed.

SECTION 2. 20.002 (11) (a) of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

20.002 (11) (a) All appropriations, special accounts and fund balances within the general fund or any segregated fund may be made temporarily available for the purpose of allowing encumbrances or financing expenditures of other general or segregated fund activities ~~or for the purpose of financing unemployment insurance benefits from the unemployment reserve fund under par. (b) 3m. whenever there are insufficient that do not have sufficient~~ moneys in the funds or accounts from which the activities are financed ~~or whenever there are insufficient moneys in the unemployment reserve fund to pay unemployment insurance benefit payments if there are accounts receivable balances or moneys anticipated to be received from lottery proceeds, as defined in s. 25.75 (1) (c), tax or contribution revenues, gifts, grants, fees, sales of service, or interest earnings recorded under s. 16.52 (2) that will be sufficient to repay the fund or account from which moneys are transferred. The~~

**BILL**

secretary of administration shall determine the composition and allowability of the accounts receivable balances and anticipated moneys to be received for this purpose in accordance with s. 20.903 (2) and shall specifically approve the use of surplus moneys from the general or segregated funds after consultation with the appropriate state agency head for use by specified accounts or programs. The secretary of administration shall reallocate available moneys from the budget stabilization fund under s. 16.465 prior to reallocating moneys from any other fund.

NOTE: NOTE: Par. (a) is shown as amended eff. 1-1-14 by 2013 Wis. Act 20. Prior to 1-1-14 it reads:NOTE:

(a) All appropriations, special accounts and fund balances within the general fund or any segregated fund may be made temporarily available for the purpose of allowing encumbrances or financing expenditures of other general or segregated fund activities which do not have sufficient moneys in the accounts from which they are financed but have accounts receivable balances or moneys anticipated to be received from lottery proceeds, as defined in s. 25.75 (1) (c), tax revenues, gifts, grants, fees, sales of service, or interest earnings recorded under s. 16.52 (2). The secretary of administration shall determine the composition and allowability of the accounts receivable balances and anticipated moneys to be received for this purpose in accordance with s. 20.903 (2) and shall specifically approve the use of surplus moneys from the general or segregated funds after consultation with the appropriate state agency head for use by specified accounts or programs. The secretary of administration shall reallocate available moneys from the budget stabilization fund under s. 16.465 prior to reallocating moneys from any other fund.

History: 1971 c. 125; 1973 c. 90, 333; 1975 c. 39 s. 732 (1); 1975 c. 164, 198; 1977 c. 29, 196, 373, 418, 447; 1979 c. 34; 1981 c. 14, 20, 61, 93, 314; 1983 a. 3, 27, 192; 1985 a. 29, 120; 1985 a. 135 s. 85; 1985 a. 332 s. 253; 1987 a. 4, 27, 186; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31; 1991 a. 39, 51, 269; 1993 a. 16, 437; 1997 a. 237; 1999 a. 9; 2001 a. 16; 2003 a. 35; 2007 a. 125; 2009 a. 11, 28; 2011 a. 32; 2013 a. 20.

**SECTION 3. 20.002 (11) (b) 1. of the statutes, as affected by 2013 Wisconsin Act**

20, is amended to read:

20.002 (11) (b) 1. ~~Except with respect to reallocations made under subd. 3m.,~~  
the The secretary of administration shall limit the total amount of any temporary reallocations to a fund other than the general fund to \$400,000,000.

NOTE: NOTE: Subd. 1. is shown as amended eff. 1-1-14 by 2013 Wis. Act 20. Prior to 1-1-14 it reads:NOTE:

1. The secretary of administration shall limit the total amount of any temporary reallocations to a fund other than the general fund to \$400,000,000.

History: 1971 c. 125; 1973 c. 90, 333; 1975 c. 39 s. 732 (1); 1975 c. 164, 198; 1977 c. 29, 196, 373, 418, 447; 1979 c. 34; 1981 c. 14, 20, 61, 93, 314; 1983 a. 3, 27, 192; 1985 a. 29, 120; 1985 a. 135 s. 85; 1985 a. 332 s. 253; 1987 a. 4, 27, 186; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31; 1991 a. 39, 51, 269; 1993 a. 16, 437; 1997 a. 237; 1999 a. 9; 2001 a. 16; 2003 a. 35; 2007 a. 125; 2009 a. 11, 28; 2011 a. 32; 2013 a. 20.

**SECTION 4. 20.002 (11) (b) 3m. of the statutes, as created by 2013 Wisconsin Act**

20, is repealed.

**SECTION 5. 20.002 (11) (c) of the statutes, as affected by 2013 Wisconsin Act 20,**

is amended to read:

20.002 (11) (c) The secretary may assess a special interest charge against the programs or activities utilizing surplus moneys within the same fund under this subsection in an amount not to exceed the daily interest earnings rate of the state investment fund during the period of transfer of surplus moneys to other accounts

## BILL

## SECTION 5

or programs. Except as provided in s. 16.465 and ~~except with respect to transfers made under par. (b) 3m.~~, the secretary shall assess a special interest charge against the fund utilizing surplus moneys under this subsection in an amount equal to the rate of return the state investment fund earnings would have created to the fund from which the reallocation was made. This interest shall be calculated and credited to the appropriate fund at the same time the earnings from the state investment fund are distributed and shall be considered an adjustment to those earnings.

NOTE: NOTE: Par. (c) is shown as amended eff. 1-1-14 by 2013 Wis. Act 20. Prior to 1-1-14 it reads:NOTE:

(c) The secretary may assess a special interest charge against the programs or activities utilizing surplus moneys within the same fund under this subsection in an amount not to exceed the daily interest earnings rate of the state investment fund during the period of transfer of surplus moneys to other accounts or programs. ~~Except as provided in s. 16.465, the secretary shall assess a special interest charge against the fund utilizing surplus moneys under this subsection in an amount equal to the rate of return the state investment fund earnings would have created to the fund from which the reallocation was made. This interest shall be calculated and credited to the appropriate fund at the same time the earnings from the state investment fund are distributed and shall be considered an adjustment to those earnings.~~

History: 1971 c. 125; 1973 c. 90, 333; 1975 c. 39 s. 732 (1); 1975 c. 164, 198; 1977 c. 29, 196, 373, 418, 447; 1979 c. 34; 1981 c. 14, 20, 61, 93, 314; 1983 a. 3, 27, 192; 1985 a. 29, 120; 1985 a. 135 s. 85; 1985 a. 332 s. 253; 1987 a. 4, 27, 186; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31; 1991 a. 39, 51, 269; 1993 a. 16, 437; 1997 a. 237; 1999 a. 9; 2001 a. 16; 2003 a. 35; 2007 a. 125; 2009 a. 11, 28; 2011 a. 32; 2013 a. 20.

**SECTION 6.** 20.002 (11) (d) (intro.) of the statutes, as affected by 2013 Wisconsin

Act 20, is amended to read:

20.002 (11) (d) (intro.) ~~Except with respect to transfers made under par. (b) 3m.,~~  
this This subsection applies only to those funds participating in the investment fund for purposes of temporary reallocation between funds or accounts. ~~No transfer may be made under this subsection from and does not include~~ any of the following funds or specified accounts in these funds:

NOTE: NOTE: Par. (d) (intro.) is shown as amended eff. 1-1-14 by 2013 Wis. Act 20. Prior to 1-1-14 it reads:NOTE:

(d) This subsection applies only to those funds participating in the investment fund for purposes of temporary reallocation between funds or accounts and does not include the following funds or specified accounts in these funds:

History: 1971 c. 125; 1973 c. 90, 333; 1975 c. 39 s. 732 (1); 1975 c. 164, 198; 1977 c. 29, 196, 373, 418, 447; 1979 c. 34; 1981 c. 14, 20, 61, 93, 314; 1983 a. 3, 27, 192; 1985 a. 29, 120; 1985 a. 135 s. 85; 1985 a. 332 s. 253; 1987 a. 4, 27, 186; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31; 1991 a. 39, 51, 269; 1993 a. 16, 437; 1997 a. 237; 1999 a. 9; 2001 a. 16; 2003 a. 35; 2007 a. 125; 2009 a. 11, 28; 2011 a. 32; 2013 a. 20.

**SECTION 7.** 108.02 (15m) (intro.) of the statutes, as affected by 2013 Wisconsin

Act 20, is amended to read:

108.02 (15m) FAMILY CORPORATION. (intro.) Family ~~Except as provided in s. 108.04 (7) (r), "family corporation"~~ means:

**SECTION 8.** 108.04 (2) (a) 2. of the statutes, as affected by 2013 Wisconsin Acts

11 and 20, is amended to read:

**BILL**

1           108.04 (2) (a) 2. Except as provided in s. 108.062 (10m), as of that week, the  
2           individual has registered for work as ~~directed by the department~~ <sup>↓</sup>; and

History: 2013 a. 20.

3           **SECTION 9.** 108.04 (2) (a) 3. (intro.) of the statutes, as affected <sup>Y</sup> by 2013  
4           Wisconsin Acts 11 and 20, is amended to read:

5           108.04 (2) (a) 3. (intro.) The individual conducts a reasonable search for  
6           suitable work during that week, unless the search requirement is waived under par.  
7           (b) or s. 108.062 (10m). The search for suitable work must include ~~at least 4~~ <sup>↓</sup> 2 actions  
8           ~~per week~~ that constitute a reasonable search as prescribed by rule of the department.

9           ~~In addition, the department may, by rule, require an individual to take more than~~  
10          ~~4 reasonable work search actions in any week. The department shall require a~~  
11          ~~uniform number of reasonable work search actions for similar types of claimants.~~ <sup>✓</sup>

12          This subdivision does not apply to an individual if the department determines that  
13          the individual is currently laid off from employment with an employer but there is  
14          a reasonable expectation of reemployment of the individual by that employer. In  
15          determining whether the individual has a reasonable expectation of reemployment  
16          by an employer, the department shall request the employer to verify the individual's  
17          employment status and shall also consider other factors, including:

History: 2013 a. 20.

18          **SECTION 10.** 108.04 (2) (i) of the statutes, as created <sup>X</sup> by 2013 Wisconsin Act 20,  
19          is repealed.

20          **SECTION 11.** 108.04 (5) (a) to (d) of the statutes, as created <sup>X</sup> by 2013 Wisconsin  
21          Act 20, are repealed and recreated to read:

22          108.04 (5) (a) A violation by an employee of an employer's reasonable written  
23          policy concerning the illegal use of a controlled substance or controlled substance

**BILL****SECTION 11**

1 analog, or the consumption of alcohol beverages, if the policy is uniformly applied to  
2 all employees of the employer and the employee had knowledge of the employer's  
3 policy, and if the employee:

4 1. Admitted to the use of a controlled substance or controlled substance analog  
5 or tested positive for the use of a controlled substance or controlled substance analog  
6 in a test used by the employer in accordance with a testing methodology approved  
7 by the department; or

8 2. Consumed alcohol beverages or was under the influence of alcohol beverages  
9 during working hours.

10 (b) Theft of an employer's property or services with intent to deprive the  
11 employer of the property or services permanently, or theft of currency of any value.

12 (c) Conviction of an employee of a crime, while on or off duty, if the conviction  
13 makes it impossible for the employee to perform the duties that the employee  
14 performs for the employer.

15 (d) Unless directed by the employer, a willful and deliberate violation of a  
16 written or uniformly applied standard or regulation of the federal government or a  
17 state or local government by an employee of an employer that is licensed or certified  
18 by a governmental agency, which standard or regulation has been communicated by  
19 the employer to the employee and which violation would cause the employer to be  
20 fined or to have its license or certification suspended by the agency.

21 **SECTION 12.** 108.04 (5) (e) to (g) of the statutes, as created by 2013 Wisconsin  
22 Act 20, are repealed.

23 **SECTION 13.** 108.04 (5g) of the statutes, as affected by 2013 Wisconsin Act 20,  
24 is repealed and recreated to read:

**BILL**

1           108.04 (5g) DISCHARGE FOR FAILURE TO NOTIFY AN EMPLOYER OF ABSENTEEISM OR  
2 TARDINESS. (a) If an employee is discharged for failing to notify his or her employer  
3 of absenteeism or tardiness that becomes excessive, and the employer has complied  
4 with the requirements of par. (d) with respect to that employee, the employee is  
5 ineligible to receive benefits until 6 weeks have elapsed since the end of the week in  
6 which the discharge occurs and the employee earns wages after the week in which  
7 the discharge occurs equal to at least 6 times the employee's weekly benefit rate  
8 under s. 108.05 (1) in employment covered by the unemployment insurance law of  
9 any state or the federal government. For purposes of requalification, the employee's  
10 weekly benefit rate shall be the rate that would have been paid had the discharge not  
11 occurred.

12           (b) For purposes of this subsection, tardiness becomes excessive if and  
13 employee is absent for 2 or more scheduled workdays in the 120-day period  
14 preceding the date of the discharge without providing adequate notice to his or her  
15 employer.

16           (c) For purposes of this subsection, absenteeism becomes excessive if an  
17 employee is absent for 2 or more scheduled workdays in the 120-day period  
18 preceding the date of the discharge without providing adequate notice to his or her  
19 employer.

20           (d) 1. The requalifying requirements of par. (a) apply only if the employer has  
21 a written policy on notification of tardiness or absences that:

22           a. Defines what constitutes a single occurrence of tardiness or absenteeism.

23           b. Describes the process for providing adequate notice of tardiness or absence  
24 and, with respect to tardiness, gives the employee a reasonable amount of time to



**BILL****SECTION 13**

1 provide notice including, at a minimum, the opportunity to provide that notice as  
2 soon as practically possible; and ~~and~~ **STET**

3 c. Notifies the employee that failure to provide adequate notice of an absence  
4 or tardiness may lead to a discharge.

5 2. The employer shall provide a copy of the written policy under subd. 1. to each  
6 employee and shall have written evidence that the employee received a copy of the  
7 policy.

8 3. The employer must have given the employee at least one warning concerning  
9 the employee's violation of the employer's written policy under subd. 1. within the  
10 120-day period preceding the date of the discharge.

11 4. The employer must apply the written policy under subd. 1. uniformly to all  
12 employees of the employer.

13 (e) The department shall charge to the fund's balancing account the cost of any  
14 benefits paid to an employee that are otherwise chargeable to the account of an  
15 employer that is subject to the contribution requirements under ss. 108.17 and  
16 108.18 if the employee is discharged by that employer and par. (a) applies.

17 (em) If an employee is not disqualified under this subsection, the employee may  
18 nevertheless be subject to disqualification under sub. (5).

19 **SECTION 14.** 108.04 (7) (d), (g), (j), (k), (n), (o) and (r) of the statutes are created  
20 to read:

21 108.04 (7) (d) Paragraph (a) does not apply if the department determines that  
22 the employee terminated his or her work to accept a recall to work for a former  
23 employer within 52 weeks after having last worked for such employer.

24 (g) Paragraph (a) does not affect an employee's eligibility to receive benefits if  
25 the employee:

**BILL**

1. Maintained a temporary residence near the work terminated, and

2. Maintained a permanent residence in another locality, and

3. Terminated such work and returned to his or her permanent residence

because the work available to the employee had been reduced to less than 20 hours per week in at least 2 consecutive weeks.

(j) Paragraph (a) does not apply if the department determines that the employee left or lost his or her work because of reaching the compulsory retirement age used by the employee's employing unit.

(k) Paragraph (a) does not apply to an employee who terminates his or her part-time work if the employee is otherwise eligible to receive benefits because of the loss of the employee's full-time employment and the loss of the full-time employment makes it economically unfeasible for the employee to continue the part-time work.

(n) Paragraph (a) does not apply to an employee who:

1. Terminated work in a position serving as a part-time elected or appointed member of a governmental body or representative of employees;

2. Was engaged in work for an employing unit other than the employing unit in which the employee served under subd. 1. at the time that the employee terminated work under subd. 1.; and

3. Was paid wages in the terminated work constituting not more than 5% of the employee's base period wages for purposes of benefit entitlement.

(o) Paragraph (a) does not apply to an employee who terminates his or her work in one of 2 or more concurrently held positions, at least one of which is full-time work, if the employee terminates his or her work before receiving notice of termination from a position <sup>e that</sup> which is full-time work.

**BILL****SECTION 14**

(r) Paragraph (a) does not apply if the department determines that the employee owns or controls, directly or indirectly, an ownership interest, however designated or evidenced, in a family corporation and the employee's employment was terminated by the employer because of an involuntary cessation of the business of the corporation under one or more of the conditions specified in sub. (1) (gm). In this paragraph, <sup>INVERT</sup> "family corporation" has the meaning given in s. 108.02 (15m) and <sup>also</sup> includes a corporation or a limited liability company that is treated as a corporation under this chapter in which <sup>50%</sup> ~~50%~~ or more of the ownership interest is or was owned or controlled, directly or indirectly, by one or more brothers or sisters of a claimant, or by a combination of one or more brothers or sisters and one or more of the persons specified in s. 108.02 (15m) (a).<sup>✓</sup>

**SECTION 15.** 108.04 (7) (h) of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

108.04 (7) (h) The department shall charge to the fund's balancing account benefits paid to an employee that are otherwise chargeable to the account of an employer that is subject to the contribution requirements of ss. 108.17 and 108.18 if the employee voluntarily terminates employment with that employer and par. (a), (c), <sup>✓</sup> (d), <sup>✓</sup> (e), <sup>✓</sup> (k), <sup>✓</sup> (L), <sup>✓</sup> (o), (q), (s), or (t) applies.

History: 2013 a. 20.

**SECTION 16.** 108.04 (7) (t) of the statutes, as affected by 2013 Wisconsin Act 20, is repealed and recreated to read:

108.04 (7) (t) Paragraph (a) does not apply if the department determines that the employee's spouse changed his or her place of employment to a place to which it is impractical to commute and the employee terminated his or her work to accompany the spouse to that place.

**BILL**

1        **SECTION 17.** 108.14 (8n) (e) of the statutes, as affected by 2013 Wisconsin Acts  
2        20 and 36, is amended to read:

3            108.14 (8n) (e) The department shall charge this state's share of any benefits  
4        paid under this subsection to the account of each employer by which the employee  
5        claiming benefits was employed in the applicable base period, in proportion to the  
6        total amount of wages he or she earned from each employer in the base period, except  
7        that if s. 108.04 (1) (f), (5), (7) (a), (c), (d), (e), (k), (L), (o), (q), (s), or (t), (7m) or (8) (a)  
8        or 108.07 (3), (3r), or (5) (b) would have applied to employment by such an employer  
9        who is subject to the contribution requirements of ss. 108.17 and 108.18, the  
10       department shall charge the share of benefits based on employment with that  
11       employer to the fund's balancing account, or, if s. 108.04 (1) (f) or (5) or 108.07 (3)  
12       would have applied to an employer that is not subject to the contribution  
13       requirements of ss. 108.17 and 108.18, the department shall charge the share of  
14       benefits based on that employment in accordance with s. 108.07 (5) (a) and (b). The  
15       department shall also charge the fund's balancing account with any other state's  
16       share of such benefits pending reimbursement by that state.

17        **SECTION 18.** 108.141 (7) (a) of the statutes, as affected by 2013 Wisconsin Acts  
18        20 and 36, is amended to read:

19            108.141 (7) (a) The department shall charge the state's share of each week of  
20        extended benefits to each employer's account in proportion to the employer's share  
21        of the total wages of the employee receiving the benefits in the employee's base  
22        period, except that if the employer is subject to the contribution requirements of ss.  
23        108.17 and 108.18 the department shall charge the share of extended benefits to  
24        which s. 108.04 (1) (f), (5), (7) (a), (c), (d), (e), (k), (L), (o), (q), (s), or (t), (7m) or (8) (a)  
25        or 108.07 (3), (3r), or (5) (b) applies to the fund's balancing account.

**BILL****SECTION 19**

**SECTION 19.** 108.16 (13) of the statutes, as created ~~by~~ by 2013 Wisconsin Act 20, is repealed.

**SECTION 20.** 108.18 (4) (figure) Schedule A line 23. of the statutes, as affected ~~by~~ by 2013 Wisconsin Act 20, is amended to read:

**Figure 108.18 (4):****Schedule A**

Line	Reserve Percentage	Contribution Rate
23.	Overdrawn by at least 6.0% but under <del>7.0%</del> <u>or more</u> .....	8.50 ✓

**SECTION 21.** 108.18 (4) (figure) Schedule A lines 24. to 26. of the statutes, as created ~~by~~ by 2013 Wisconsin Act 20, are repealed. ~~X~~

**SECTION 22.** 108.18 (4) (figure) Schedule B line 23. of the statutes, as affected ~~by~~ by 2013 Wisconsin Act 20, is amended to read:

**Figure 108.18 (4):****Schedule B**

Line	Reserve Percentage	Contribution Rate
23.	Overdrawn by at least 6.0% but under <del>7.0%</del> <u>or more</u> .....	8.50 ✓

**SECTION 23.** 108.18 (4) (figure) Schedule B lines 24. to 26. of the statutes, as created ~~by~~ by 2013 Wisconsin Act 20, are repealed. ✓

**BILL**

affected

1

**SECTION 24.** 108.18 (4) (figure) Schedule C line 23. of the statutes, as created

2

by 2013 Wisconsin Act 20, is amended to read:

**Figure 108.18 (4):****Schedule C**

Line	Reserve Percentage	Contribution Rate
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23.	Overdrawn by at least 6.0% but under 7.0% or more .....	8.50
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3

**SECTION 25.** 108.18 (4) (figure) Schedule C lines 24. to 26. of the statutes, as

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created by 2013 Wisconsin Act 20, are repealed. ✓

5

**SECTION 26.** 108.18 (4) (figure) Schedule D line 23. of the statutes, as affected

6

by 2013 Wisconsin Act 20, is amended to read:

**Figure 108.18 (4):****Schedule D**

Line	Reserve Percentage	Contribution Rate
------	--------------------	-------------------

23.	Overdrawn by at least 6.0% but under 7.0% or more .....	8.50
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7

**SECTION 27.** 108.18 (4) (figure) Schedule D lines 24. to 26. of the statutes, as

8

created by 2013 Wisconsin Act 20, are repealed. ✓

9

**SECTION 28.** 108.18 (9) (figure) Schedule A lines 25 to 27 of the statutes, as

10

created by 2013 Wisconsin Act 20, are repealed. ✓

11

**SECTION 29.** 108.18 (9) (figure) Schedule B lines 25 to 27 of the statutes, as

12

created by 2013 Wisconsin Act 20, are repealed. ✓

13

**SECTION 30.** 108.18 (9) (figure) Schedule C lines 25 to 27 of the statutes, as

14

created by 2013 Wisconsin Act 20, are repealed. ✓

15

**SECTION 31.** 108.18 (9) (figure) Schedule D lines 25 to 27 of the statutes, as

16

created by 2013 Wisconsin Act 20, are repealed.

## BILL

## SECTION 32

## SECTION 32. Initial applicability.

(1) INTERFUND TRANSFER AUTHORITY. The treatment of sections 16.531 (4), 20.002 (11) (a), (b), 1. and 3m., (c), and (d) (intro.) and 108.16 (13) of the statutes first applies with respect to transfers <sup>authorization to make</sup> ~~made~~ on the effective date of this subsection.

(2) MISCONDUCT AND SUBSTANTIAL FAULT. The treatment of sections 108.04 (5) (a) to (d) and (e) to (g) and 108.04 (5g) of the statutes first applies with respect to determinations issued under section 108.09 of the statutes on January 5, 2014, or the first Sunday after publication, whichever is later, or, with respect to determinations that are appealed, to decisions issued under section 108.09 of the statutes on January 5, 2014, or the first Sunday after publication, whichever is later.

(3) UNEMPLOYMENT INSURANCE; TEMPORARY HELP COMPANIES. The treatment of section 108.04 (2) (i) of the statutes first applies with respect to determinations issued under section 108.09 of the statutes on the first Sunday of the <sup>7th</sup> ~~seventh~~ month beginning after the effective date of this subsection, or, with respect to determinations that are appealed, to decisions issued under section 108.09 of the statutes on the first Sunday of the <sup>7th</sup> ~~seventh~~ month beginning after the effective date of this subsection.

(4) UNEMPLOYMENT INSURANCE; VOLUNTARY TERMINATION OF WORK. The treatment of sections 108.02 (15m) (intro.), 108.04 (7) (d), (g), (h), (j), (k), (n), (o), (r), and (t), 108.14 (8n) (e), and 108.141 (7) (a) of the statutes first applies with respect to determinations issued under section 108.09 of the statutes on the first Sunday of the <sup>7th</sup> ~~seventh~~ month beginning after the effective date of this subsection, or, with respect to determinations that are appealed, to decisions issued under section 108.09 of the statutes <sup>on the</sup> the first Sunday of the <sup>7th</sup> ~~seventh~~ month beginning after the effective date of this subsection.

**BILL**

1 (5) REGISTRATION AND WORK SEARCH ACTIONS. The treatment of sections 108.04  
2 (2) (a) 2. and 3. (intro.) of the statutes first applies with respect to weeks of  
3 unemployment beginning after the effective date of this subsection.

4 (6) UNEMPLOYMENT INSURANCE; CONTRIBUTION AND SOLVENCY RATES. The  
5 treatment of section 108.18 (4) (figure) Schedule A lines 23. to 26., Schedule B lines  
6 23. to 26., Schedule C lines 23. to 26., and Schedule D lines 23. to 26. and (9) (figure)  
7 Schedule A lines 25 to 27, Schedule B lines 25 to 27, Schedule C lines 25 to 27, and  
8 Schedule D lines 25 to 27 of the statutes first applies with respect to payrolls  
9 beginning on January 1, 2016.

10 **SECTION 33. Effective dates.** This act takes effect on the day after publication,  
11 except as follows:

12 (1) INTERFUND TRANSFER AUTHORITY. The treatment of sections 16.531 (4), 20.002  
13 (11) (a), (b) 1. and 3m., (c) and (d) (intro.), and 108.16 (13) of the statutes takes effect  
14 on January 1, 2014 or the day after publication, whichever is later.

15 (2) MISCONDUCT AND SUBSTANTIAL FAULT. The treatment of sections 108.04 (5) (a)  
16 to (d) and (e) to (g) and 108.04 (5g) of the statutes takes effect on January 5, 2014,  
17 or the first Sunday after publication, whichever is later.

18 (END)



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2622<sup>1</sup>/dn  
JTK&MED:.....

Wly

Date

Please note that, in order to give the Department of Workforce Development lead time to implement the changes in this bill, we included initial applicability provisions to specify when the changes would first apply, similar to those included in Act 20. If this bill were to move toward passage, we would recommend consulting with DWD about any necessary changes to these initial applicability provisions.

Regarding the exemptions from the requalification requirements for employees who terminate employment (quit exceptions), this bill restores some of the quit exceptions that were repealed or modified by Act 20. The bill does not affect any changes made by Act 20 to the requalification requirements and quit exceptions that were approved by the Council on Unemployment Insurance. Let me know if this is not consistent with your intent.

Also, note that your item number 409 (repeal of the provisions related to partial UI benefits in weeks containing holidays) is not included because those provisions were vetoed from the budget bill by the Governor.

Finally, we note that Act 20 provided DWD with GPR funding to implement the UI provisions. You may wish to consider including provisions to address funding for DWD in this bill as well.

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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2622/1dn  
JTK&MED:wlj:ph

August 16, 2013

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**Basford, Sarah**

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**From:** McGuire, Thaddeus  
**Sent:** Friday, August 16, 2013 12:31 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -2622/1 Topic: Unemployment insurance - various changes

Please Jacket LRB -2622/1 for the ASSEMBLY.